

Catherine I. Rajwani (*Pro Hac Vice*)
Email: crajwani@harborlaw.com
Herling D. Romero (*Pro Hac Vice*)
Email: hromero@harborlaw.com
THE HARBOR LAW GROUP
300 West Main Street, Building A, Unit 1
Northborough, MA 01532
Telephone: (508) 393-9244
Facsimile: (508) 393-9245

Deepali A. Brahmbhatt (SBN 255646)
Email: dbrahmbhatt@devlinlawfirm.com
DEVLIN LAW FIRM LLC
3120 Scott Blvd. #13
Santa Clara, CA 95054
Telephone: (302) 449-9010
Direct: (650) 254-9805
Facsimile: (302) 353-4251

Attorneys for Plaintiff,
SIPCO, LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
[SAN FRANCISCO DIVISION]

SIPCO, LLC, a Georgia limited liability company,
Plaintiff,
vs.
VIGILENT CORPORATION, a California
corporation,
Defendant.

Case No. 3:20-cv-03520-WHO
Hon. William H. Orrick

JOINT STATUS REPORT

JOINT STATUS REPORT

Plaintiff SIPCO, LLC and Defendant Vigilant Corporation file the following joint status report as required by the Court's Order of January 10, 2022. ECF No. 38.

SIPCO filed notices of appeals of the PTAB's decisions¹ pertaining to No. 8,964,708 (the "'708 Patent") on October 13, 2020. The Federal Circuit consolidated the two appeals with case 21-1039 being the lead and 21-1040 being secondary. The docket sheet for the lead appeal is attached hereto as Exhibit A. The parties completed briefing on June 23, 2021. *See* Exhibit A at Docket No. 28. On that same day, the Federal Circuit sought additional briefing regarding the Supreme Court's *Arthrex* decision. *See id.* at Docket No. 29; *see also United States v. Arthrex, Inc.*, 141 S. Ct. 1970, 1976 (2021). At that point, SIPCO requested an *Arthrex* remand so it could petition for Director review. The Federal Circuit granted this remand on August 2, 2021. *See id.* at Docket No. 34.

At the PTO, in each of the two IPRs SIPCO filed a request for Director review on September 1, 2021. Mr. Hirshfeld denied review in both cases on October 15, 2021. SIPCO notified the Federal Circuit of the denial on October 28, 2021. *See id.* at Docket No. 35. The Federal Circuit then asked if SIPCO intended to separately challenge the denial of Director review in addition to the underlying PTAB decisions. *See id.* at Docket No. 36. SIPCO elected not to separately challenge the denial of Director review, but it continues to seek reversal of the PTAB's underlying decisions. *See id.* at Docket No. 37.

On December 14, 2021, the Federal Circuit designated a third appeal (No. 21-1881) as a companion case to be heard by the same merits panel as the consolidated appeals. *See id.* at Docket No. 40. The third appeal is not as advanced as the consolidated appeals, with the reply brief due on February 10, 2022. Once briefing concludes in the third appeal, the Federal Circuit is likely to schedule hearings in all three appeals for the same date. That scheduling is within the discretion of the Federal Circuit, and the Parties do not know exactly when it will occur.

Dated: February 10, 2022

¹ *Emerson Elec. Co. v. SIPCO, LLC*, No. IPR2019-00547, Paper 36 (PTAB Aug. 27, 2020) and *Emerson Elec. Co. v. SIPCO, LLC*, IPR2019-00545, Paper 35 (PTAB Aug. 27, 2020).

O'Melveny & Myers LLP

By: /s/ Melody Drummond Hansen
Melody Drummond Hansen

Attorneys for Defendant,
Vigilent Corporation

DEVLIN LAW FIRM LLC

By: /s/ Deepali A. Brahmbhatt
Deepali A. Brahmbhatt

THE HARBOR LAW GROUP

Catherine I. Rajwani
Herling D. Romero
(*Pro Hac Vice*)

Attorneys for Plaintiff,
SIPCO, LLC

ATTESTATION PURSUANT TO L.R. 5-1(i)(3)

I hereby attest that all signatories listed, on whose behalf this filing is submitted, concur in this filing's content and have authorized this filing.

/s/ Deepali Brahmbhatt